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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,931	08/27/2003	Kenneth E. Flick	58178	4114

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EXAMINER

SWARTHOUT, BRENT

ART UNIT PAPER NUMBER

2636

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/648,931

Applicant(s)

FLICK, KENNETH E.

Examiner

Brent A Swarthout

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16 is/are allowed.
- 6) ☒ Claim(s) 1,4-10,17-23 and 26-32 is/are rejected.
- 7) ☒ Claim(s) 2,3,24 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,4,7,8,10,17,20,22,23,26,29,30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (407).

Hwang teaches a prealarm warning system comprising prealarm sensor (port b, Fig. 1) for sensing low level security alert and prealarm emulator 102 for generating a signal on data communication line to alarm controller 103 to cause alert indicator 105 to generate a prealarm different than a full alarm (col. 1, line 65- col.2, line 15). Although Hwang does not specifically state that data communication line between emulator 102 and alarm controller 103 is a bus, such would have been obvious to one of ordinary skill in the vehicle security communication art, since a bus is a well-known type of communication line in vehicle security communication systems.

Regarding claim 4, since Hwang teaches activation of chirp for low level alerts, choosing to provide plural chirps would have been an obvious matter of engineering choice, based on whether plural versus a single alert was deemed most preferable by a user.

Regarding claim 7, Hwang teaches that sensor b also detects high security alarm conditions (col.2, lines 5-15).

Regarding claim 8, choosing to place system components in a housing would have been obvious in order to protect against tampering and environmental hazards.

Regarding claim 10, Hwang teaches use of motion sensor (Fig. 1).

Regarding claim 17, a chirp as taught by Hwang is a typical indication of arm mode activation for vehicle remote controls.

Regarding claim 23, choosing to install pre-warn circuitry such as taught by Hwang in conjunction with already existing alarm circuitry would have been obvious to one of ordinary skill in the vehicle alarm art, in order to avoid the nuisance of continuous alerts due to non-threatening conditions.

3. Claims 5, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (407) in view of Hwang (697).

Hwang (697) discloses desirability of making a pre-warn alert shorter than a high level alert (col. 2, lines 29-38). It would have been obvious to use a short pre-warn alert in conjunction with a system as disclosed by Hwang (407), in order to notify parties that a vehicle was alarmed while still minimizing nuisance alerts of long duration.

4. Claims 6, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hwang (407) in view of Issa et al.

Issa teaches desirability of using pre-warn alerts of lesser intensity than alarms for high levels of concern (col. 3, lines 19-35, 65-67).

It would have been obvious to use a lower volume alert for less hazardous conditions as suggested by Issa in conjunction with a system as disclosed by Hwang (407), in order to let a bystander know how serious an alert condition was.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

a. Claims 9,21 and 31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-60, 1-30, 1-59, 1-19, 1-64 and 1-67 of U.S. Patent Nos. 6,275,147, 6,011,460, 5,719,551, 6,696,927, 6,249,216 and 6,243,004, respectively, in view of Hwang (407). The various Flick references all disclose using a set of signals for different vehicles or controllers with a common signal enabler.

It would have been obvious to use a signal enabler usable with plural systems as suggested by Flick in conjunction with a system as disclosed by Hwang, in order to allow usage of a prealarm system in a plurality of different types of vehicles with various components.

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6. Claims 2,3 and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 11-16 are allowed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Flick (763), Talbot and Garrick disclose prealarm systems.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brent A Swarthout
Examiner
Art Unit 2636

**BRENT A. SWARTHOUT
PRIMARY EXAMINER**